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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES DALE POWELL,

Defendant and Appellant.

C062624

(Super. Ct. No. CM030714)

Defendant James Dale Powell was angry at his girlfriend Erica Gibson for going to a bar. He met her at the bar, where she agreed to enter his vehicle. Defendant struck Gibson in the face as he drove to a home in Oroville. Arriving at the residence, defendant ordered Gibson into a backyard shed, then pushed her into a wall, and struck her twice in the head and face.

Defendant next ordered Gibson into the front yard, telling her she cannot "'play head games' with him" or she "'will get hit.'" Defendant left her in the yard as he retrieved a gun

scope. Returning, defendant pushed the scope into Gibson's nose and said, "'No more head games.'"

Defendant went to the front of the house and sat on Gibson's car. The home's residents arrived, telling defendant he was not welcome, and kept him from retrieving his clothes.

Defendant ordered Gibson into the car and, after she entered, defendant threw a wrench at the car and cracked the windshield. He next ordered Gibson into the house to get his clothes. She entered but refused to leave the house, pleading with the residents to hide her.

Defendant eventually gained entry and disconnected the telephone while one of the residents was talking to an emergency operator. He found Gibson hiding in a bedroom and dragged her out of the house and into the car. He drove off, but was stopped by sheriffs less than two blocks away.

Defendant pled guilty to kidnapping. The court sentenced him to an upper term of eight years in prison, imposed various fines and fees, and awarded 131 days' custody credit (114 actual and 17 conduct).

Having failed to obtain a certificate of probable cause, defendant appeals.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the

date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

Our examination of the record has discovered an error in the abstract. In accordance with the probation report, the court awarded 131 days' custody credit consisting of 114 days of local time and 17 days of conduct credit (Pen. Code, § 2933.1). The abstract erroneously shows 27 days of conduct credit. We will order the trial court to prepare an amended abstract of judgment reflecting the correct presentence credit.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting 114 days of local time and 17 days of conduct credit for a total of 131 days of presentence credit and to send a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.

ROBIE, J.

We concur:

SCOTLAND, P. J.

CANTIL-SAKAUYE, J.